

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 1105 of 1992

For Approval and Signature:

Hon'ble MR.JUSTICE J.R.VORA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy of the judgement? : NO
 4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO
 5. Whether it is to be circulated to the Civil Judge? : NO
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MODI SHAILESHKUMAR J

Versus

STATE OF GUJARAT

Appearance:

MR MM PRAJAPATI for Petitioner No. 1
MS MANISHA LAVKUMAR, AGP for Respondents

CORAM : MR.JUSTICE J.R.VORA
Date of decision: 16/04/2002

ORAL JUDGEMENT

1. Learned Advocate Mr. M.M. Prajapati for the petitioner and learned AGP Ms.Manisha Lavkumar for the respondents were heard.

2. The facts of the case go to show that in the year 1986 the present petitioner, who applied for the post of Talati-cum-Mantri, was placed in the waiting list after

interview. The order at Annexure-A with this petition clearly indicates that the name of the petitioner was included in the waiting list. Two lists were prepared. A select list was prepared for 40 candidates and a waiting list was prepared for other 40 candidates, totalling to 80 candidates. From the select list, 38 vacancies were filled in and respondents again advertised the post for the vacancies occurred. Petitioner at that juncture filed Spl. C.A. No. 1244/91 in this Court which was decided by oral order dated July 29, 1991 (Coram: C.V. Jani, J.) claiming relief that since 32 vacancies were still to be filled at that juncture and there was a waiting list of 40 candidates, the fresh advertisement for the same post was illegal and that he was required to be appointed to the vacancies from the waiting list. Vide the above said oral order dated 29.7.1991, this Court negatived the prayer of the petitioner for the appointment to the post of Talati-cum-mantri as prayed for because the petitioner was not included in the select list but was included in the waiting list. This Court also clarified that the action of the District Development Officer to scrap the waiting list was also not proper in view of the order passed by the concerned authority on 23rd of December, 1988 that the waiting list would remain till new select list was prepared. The court further observed that the waiting list to be kept alive till new select list was prepared and if the concerned District Panchayat intended to make any appointment from the said waiting list, nothing would prevent it from doing so.

3. Now, in this petition, the petitioner has prayed that the vacancies available before the Advertisement No. 26/90-91 be filled up before new selection list is prepared. Naturally, meaning thereby that, the existing vacancies available at that juncture, was prayed by this relief, to be filled up from the waiting list.

4. The relief claimed in this petition cannot be granted to the petitioner for the simple reason that admittedly the petitioner was included in the waiting list and not in selection list though the waiting list was to be kept alive till the new selection list was to be prepared. It was not obligatory on respondents to make new appointments from the waiting list, which is clear from the order of this Court dated July 29, 1991 firstly negating the prayer of the petitioner to appoint him from the waiting list and thereafter observing that though the waiting list be kept alive the concerned District Panchayat might make appointments from the waiting list if Panchayat so intends. So, it is

clear that no vested right was acknowledged of the petitioner to be appointed to the post from the waiting list and hence a direction to the Department to make appointment to the vacancies which have arisen before fresh advertisement cannot be given.

5. For the above said reasons, this Spl.C.A. fails and the same is dismissed. Rule is discharged.

(J.R. Vora, J.)

p.n.nair